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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,821	01/24/2001	Maximilian Angel	51162	2188
26474	7590	03/09/2004	EXAMINER	
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			WELLS, LAUREN Q	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/767,821

Applicant(s)

ANGEL ET AL.

Examiner

Lauren Q Wells

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3 and 10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See Continuation Sheet


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: a) the 35 USC 103 rejection is maintained for reasons of record in the Office Action mailed 9/23/03; b) Applicant argues, "the Examiner inter alia provides that "Page 8 of '459 teaches process for the. . . applicants assume that the Examiner intended to cite GB 922,457 rather than GB 922, 459 as the primary reference. Pending that applicants' assumption is correct, it is to be noted that the prior record does not indicated that the Examiner relies on her rejection on a disclosure which differs from the reference identified in the rejection. Accordingly, withdrawal of the finality of the latest Office action is deemed equitable". This argument is not persuasive, as the Examiner did not intend to cite GB 922,457, but relied on GB 922,459, as indicated in both the non-final and final office actions. The reference to page 8 of '459 was a typo and page 3 should have been referenced, which is obvious when the GB 922,459 is read. Thus, the finality of the instant rejection will not be withdrawn. .

Continuation of 10. Other: The Amendment filed 12/17/03 cancels non-elected claims, thereby not affecting the material issues of the examined claims..